

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:07-CV-33-RJC-DCK**

**RUBBERMAID, INC. (d/b/a Rubbermaid
Medical Solutions),**)
)

Plaintiff,)

v.)

SIGNALIFE, INC.,)

Defendant.)

ORDER

SIGNALIFE, INC.,)

Counterplaintiff,)

v.)

**RUBBERMAID, INC. (d/b/a Rubbermaid
Medical Solutions), NEWELL
RUBBERMAID, INC., GARY
SCOTT, AND DAVID HICKS,**)

Counterdefendants.)

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Motion To Compel Mediation” (Document No. 55) filed August 13, 2008, and Defendant’s “Motion For Extension Of Time” (Document No. 60) filed August 15, 2008. These matters have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b) and immediate review is appropriate.

Having carefully considered the motions, the record, the comments of counsel in a telephone status conference on August 19, 2008, and the applicable authority, the undersigned will deny the motions.

First, the undersigned was persuaded during the recent telephone conference that the parties could reach a mutually agreeable decision on a mediator and date of mediation and therefore the motion to compel mediation will be denied without prejudice. It is the Court's expectation that the parties will soon file a notice naming their mediator and the date set for mediation.

Next, after consideration of the Defendant's motion for a 60-day extension of time to file an expert's report, the undersigned disagrees with the contention that the "extension of time will not affect other deadlines in this matter." To the contrary, in the time proposed for the extension, the parties are scheduled to complete discovery and file dispositive motions. The undersigned notes that a previous thirty (30) day extension of time for expert reports was granted (Document No. 48), and that Defendant's current motion for extension was filed on the date its expert report was due. Furthermore, Defendant's motion for extension did not allege good cause for an extension or show consultation with opposing counsel.

The moving party must show consultation with opposing counsel regarding the extension and must notify the Court of the views of opposing counsel on the request. If a party fails to make the requisite showing, the Court may summarily deny the request for extension.

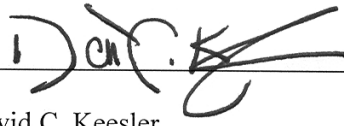
(Document No. 38 at ¶ E).

IT IS, THEREFORE, ORDERED that the "Plaintiff's Motion To Compel Mediation" (Document No. 55) is **DENIED WITHOUT PREJUDICE**. The parties shall jointly file notice with the Court on or before **August 29, 2008**, indicating the name of their chosen mediator and the date of mediation. Pursuant to the "Pretrial Order And Case Management Plan" (Document No. 38), mediation shall be completed and the results reported on or before **September 15, 2008**.

IT IS FURTHER ORDERED that Defendant's "Motion For Extension Of Time"

(Document No. 60) is **DENIED**.

Signed: August 25, 2008



David C. Keesler
United States Magistrate Judge

